

“(c) The words ‘impracticable of fulfillment’, as used in this Section shall include, but shall not be limited to, the failure of any trust for charity, testamentary or inter vivos, (including, without limitation, trusts described in Section 509 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws and charitable remainder trusts described in Section 664 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws) to include, if required to do so by Section 508(e) or Section 4947(a) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws, the provisions relating to governing instruments set forth in Section 508(e) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws.”

Sec. 3. G.S. 32-27 is amended by adding a new subsection (31), which shall read as follows:

“(31) The foregoing powers shall be limited as follows for any trust which shall be classified as a ‘private foundation’ as that term is defined by Section 509 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws (including each non-exempt charitable trust described in Section 4947(a)(1) of the Code which is treated as a private foundation) or non-exempt split-interest trust described in Section 4947(a)(2) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws (but only to the extent that Section 508(e) of the Code is applicable to such non-exempt split-interest trust under Section 4947(a)(2)):

- (1) The fiduciary shall make distributions of such amounts, for each taxable year, at such time and in such manner as not to become subject to the tax imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.
- (2) No fiduciary shall engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.
- (3) No fiduciary shall retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.
- (4) No fiduciary shall make any investments in such manner as to subject the trust to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.
- (5) No fiduciary shall make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.”

Sec. 4. A new section, to be designated G.S. 36-23.3 is hereby enacted to read as follows:

“§ 36-23.3. *Charitable Trusts Tax Exempt Status.*—(a) Notwithstanding any provisions in the laws of this State or in the governing instrument to the contrary unless otherwise decreed by a court of competent jurisdiction (except as provided in Subsection (b)), the governing instrument of each trust which is a private foundation described in Section 509 of the Internal Revenue Code of 1954 (including each non-exempt charitable trust described in Section 4947(a)(1) of the Code which is treated as a private foundation) and the governing instrument of each non-exempt split-interest trust described in Section 4947(a)(2) of the Code (but only to the extent that Section 508(e) of the Code is applicable to such non-exempt split-interest trust under Section 4947(a)(2) of the Code) shall be deemed to contain the following provisions: “The trust